

REMARKS

Favorable reconsideration is respectfully requested in view of the following Remarks.

I. CLAIM STATUS AND EXAMINER INTERVIEW

Claims 23-30, 32-35, and 39-41 are pending and stand rejected.

Applicant thanks Examiner Nguyen and Examiner Hindenburg for the helpful interview with the applicant's representative on May 20, 2009. During the interview, the applicant's representative discussed the differences between the instant invention and the art of record. Applicant's representative explained that SUYDAM (US 2002/0192761 A1) describes a disposable portable urinal device designed to be sealed, leak-free, and odor-free. In this regard, the SUYDAM device includes a urine-absorber, such as a gellable hydrophilic material, that functions to absorb and retain urine for disposal. Examiner Nguyen indicated that this particular feature had not previously been pointed out during prosecution. Applicant's representative argued that one of ordinary skill would fail to find any reason to modify SUYDAM to include a flow indicator, a closing member, and/or a volume indicator, as recited in the present claims. Those arguments are set forth in further detail in the comments below.

II. CLAIM REJECTIONS - 35 USC §103

At page 2, item 3, the Office Action rejects claims 23-28, 30, and 39-41 under 35 USC §103(a) as obvious over SUYDAM (US 2002/0193762 A1), in view of DYE (US 3,831,446), further in view of BORTLE (US 4,296,502), even further in view of NOZAKI et al. (US 6,530,909). Applicant respectfully traverses the rejection.

Claim 23

The present invention of claim 23 is directed to a urological measuring instrument for measuring urine flow. The instrument includes, in part, a flow indicator for assessing at least a magnitude of the urine flow. Claim 24 further includes a collecting device provided with a closing member. Claim 27 further recites that the collecting device is provided with a volume indicator for a urine volume received therein. As explained during the Examiner Interview, one of ordinary skill would fail to find any reason to modify SUYDAM to include a flow indicator, a closing member, and/or a volume indicator, and the references fail to teach or suggest any way that SUYDAM could be modified to include such features.

In regards to independent claim 23, SUYDAM describes a disposable urinal device designed to be sealed, leak-free, and odor-free. In this regard, the SUYDAM device includes a urine-absorber such as a gellable hydrophilic material (52) that functions to absorb and retain the urine for disposable (see,

paragraph [0012], and Fig. 4). The hydrophilic material is preferably a hydrophilic polymer of a type that absorbs fluid entering the bag and causes the fluid to be in a semi-solid or gelatinous state. The use of hydrophilic material reduces the likelihood of spillage should the disposable urinal be accidentally dropped or the collection bag torn. The bag can also comprise a deodorant or fragrance that is released upon activation of the hydrophilic material (see, paragraph [0033]).

One of ordinary skill would fail to find any reason to modify SUYDAM to include a flow indicator because the user of the SUYDAM device simply wants to "urinate and dispose" and so the flow rate is completely irrelevant. The secondary references also fail to teach or suggest any way that SUYDAM could be modified to include a flow indicator because SUYDAM is simply designed to capture and dispose of urine and does not care about measuring the flow rate.

For at least these reasons, SUYDAM, DYE, BORTLE, and NOZAKI et al., alone or in combination, fail to teach or suggest, and would not have rendered obvious, a urological measuring instrument for measuring urine flow having the combination of features recited in claim 23. Each of claims 24-28, 30, and 39-41 depend directly or indirectly from claim 23. Thus, for at least the same reasons, each of these claims would also not have been obvious. Accordingly, Applicant respectfully requests

reconsideration and withdrawal of the rejection of claims 23-28, 30, and 39-41.

Claim 24

One of ordinary skill would also have no reason to modify SUYDAM to include a closing member, as featured in claim 24. SUYDAM is designed and intended to capture and dispose of urine, in a sealed, leak-free device that includes a hydrophilic absorbent. SUYDAM does not function to be drained or emptied through a closing member. In fact, SUYDAM teaches away from a closing member by its sealed design and its intended function. For this additional reason, SUYDAM, DYE, BORTLE, and NOZAKI et al., alone or in combination, fail to teach or suggest, and would not have rendered obvious, an instrument having a closing member, as recited in claim 24. Each of claims 25-28 depends from claim 24 and also would have not been obvious. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 24-28.

Claim 27

One of ordinary skill would also have no reason to modify SUYDAM to include a volume indicator. SUYDAM utilizes a collection bag that includes a urine-absorber/hydrophilic gel designed to capture the urine in a semi-solid or gelatinous state. SUYDAM does not, and cannot, function as a system to measure urine volume, and thus, would never include a volume indicator. In fact, SUYDAM teaches away from a volume indicator

by its urine-absorber and its intended function. For this additional reason, SUYDAM, DYE, BORTLE, and NOZAKI et al., alone or in combination, fail to teach or suggest, and would not have rendered obvious, an instrument having a volume indicator, as recited in claim 27.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 27.

Claims 29-30 and 32-35

At page 6, item 14, the Office Action rejects claims 29-30 under 35 USC §103(a) as obvious over SUYDAM in view of DYE, BORTLE, and NOZAKI et al., and further in view of McWHORTER (US 3,831,453), even further in view of PERSSON (US 3,928,875). At page 7, item 18, the Office Action rejects claim 32 under 35 USC §103(a) as obvious over SUYDAM in view of DYE, BORTLE, and NOZAKI et al., further in view of GRIFFITTS (US 2,856,932). At page 8, item 20, the Office Action rejects claim 33 under 35 USC §103(a) as obvious over SUYDAM in view of DYE, BORTLE, NOZAKI et al., further in view of OXLEY (US 5,423,792). At page 9, item 22, the Office Action rejects claims 34-35 under 35 USC §103(a) as obvious over SUYDAM in view of DYE, BORTLE, and NOZAKI et al., further in view of OXLEY, even further in view of LeVEEN et al. (US 4,532,936). Applicant respectfully traverses each of these rejections.

Each of claims 29-30 and 32-35 depend, directly or indirectly, from claim 23. Thus, for at least the same reasons as

stated in the comments above, SUYDAM, DYE, BORTLE, and NOZAKI et al., alone or in combination with any of the other numerous secondary references, fail to teach or suggest, and would not have rendered obvious, a urological measuring instrument for measuring urine flow that includes a flow indicator for assessing at least a magnitude of the urine flow, as featured in claims 29-30 and 32-35. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of these rejections.

III. CONCLUSION

In view of the foregoing Remarks, Applicant respectfully submits that the present application is in condition for allowance and notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/H. James Voeller/

H. James Voeller, Reg. No. 48,015
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

HJV/fb